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December 2002

**CLIENT WORKSHEETS
WILL QUESTIONNAIRE
POWER OF ATTORNEY
ADVANCED MEDICAL DIRECTIVE**

Date and Time of Appt: _____ Attorney _____

Directions to the Legal Assistance Office: Enter the Main Gate, take an immediate left turn onto Porter Street, take your second right onto Fraim Street (across from PX) we are located on the left side, Building 521.

DATA REQUIRED BY THE PRIVACY ACT OF 1974
Privacy Act Statement

Authority: 10 USC 3012

Principle Purposes: To prepare Will, Powers of Attorney and Medical Directives

Routine Uses: Legal Assistance Only, attorney client privilege prohibits further release

Disclosure: Voluntary; Failure to supply information will result in the above documents not being prepared.

ESTATE PLANNING has a lasting effect on you and your family. What you do now affects what they may have after you die. Your plan may include one or more of these: Will; Advance Medical Directive ("living will"); Durable Power Of Attorney for Health Care; Durable Power Of Attorney in case of incompetence; Life Insurance; a trust (possibly in a will); a Letter of Instruction, and an anatomical gift designation (often on your driver's license).

A properly executed will leaves instructions to a probate court about your intended property distribution. It may provide simple instructions or may contain a trust. **A will is especially important for parents with young children.** In this situation, you should name a guardian (and preferably a backup) for your children in case the natural parent also dies while the children are minors. You may name a trustee to manage your property and properly invest on behalf of your children until they attain the age of majority (21). Consider carefully who you trust with these important duties. You should also discuss your wishes with all of those named to ensure that they know that you named them, and what your desires are.

You must plan carefully and that requires you think about your situation, family, and desires. **Don't wait until that SRP to consider this important matter.** Do so now while you have the time to reflect.

For more information about preparing your will read the Federal Consumer Information Center's Life Advice publication, *Making a Will*, http://www.pueblo.gsa.gov/cic_text/money/will/makewill.htm.

This questionnaire will help you organize the information that your legal assistance attorney needs to advise you and prepare your estate plan. Some individuals need very complex plans that may require you obtain assistance beyond what is available in your local legal assistance office. Your legal assistance attorney will advise you if that is necessary in your case.

Getting Started. You and, if married, your spouse, should read the attached questionnaire. Please bring your completed questionnaire with you when you consult with your attorney.

NOTE: If both husband and wife see the same attorney for estate planning advice, they need to discuss a dual representation waiver.

WILL TERMINOLOGY

I. WHY SHOULD I MAKE A WILL? If you die without a valid will, the laws of your domicile or state of legal residence determine what happens to your property. Your state of domicile may or may not be the state where you die. Without a will, your wishes may not be considered.

II. WHAT IS A WILL? A will is a legally effective declaration of a person's wishes as to the disposition of their property upon their death. It must be executed with the formalities required by statute. The provisions of a will do not take effect until after the death of the maker.

III. LEGAL RESIDENCE (DOMICILE): The state you consider your permanent home and to which you have every intention of returning. When you die, the laws of your state of domicile will be used to interpret and implement your will. For military members, your domicile is often your legal residence (e.g., your home of record), not the place you are currently living.

IV. IS ALL OF MY PROPERTY CONTROLLED BY MY WILL WHEN I DIE? No! For example, proceeds of life insurance policies (including SGLI) are distributed as you designated in the insurance policy, and property that you own jointly with another person will normally go to the other joint owner. Likewise, certain bank accounts which are payable on death go directly to the beneficiary. Property passed to beneficiaries in these ways avoid the probate proceeding.

V. WHAT IS YOUR PROPERTY: 1) **What is personal and tangible property?** Property which is moveable. 2) **What is real property?** Property that has a fixed location, such as land or a house. 3) **Disposition of property:** You can dispose of your property any way you wish, although state law may give your spouse and/or children a right to a portion of your property regardless of your stated intentions. You can give away property item by specific bequests or all to one person or a group of persons equally. Many married persons leave all their property to their spouse, and, if their spouse predeceases them, then to their children.

VI. WHAT IS YOUR ESTATE: All property, real and personal, in which a person has an interest, such as money, savings accounts, stocks, house, furniture, insurance policies, etc. **WHAT DOES RESIDUARY ESTATE MEAN?** Your residuary estate is whatever property remains after paying debts and expenses of administration, and any specific bequests. Because many people do not make specific bequests, the "residuary" usually describes all the property left to your beneficiaries.

VII. SPECIFIC BEQUESTS: You may make specific gifts of cash, real estate, or personal property to specific people or charities in your will. For a number of reasons, these bequests are discouraged. These bequests will be distributed first and may deplete your estate. Specific bequests may complicate the probate of your estate if the property given cannot be found at your death. Therefore, if you make any specific bequests, you should only give property or amounts of cash that you are almost certain you will have when you die. If you make no specific bequests, all of your property will pass to your primary beneficiaries. Many states allow you to make a "personal memorandum," in which you can give specific items of personal property to named beneficiaries in writing separate from your will. While in most states memorandum gifts are not legally binding, your executor will give these gifts as much weight as state law allows.

VIII. PROBATE: Probate is a court administered procedure for settling your estate as provided in your will or under state law. Probate involves petitioning a court for letters of appointment, settling creditor claims, finding and distributing assets, filing any necessary tax returns and the guardianship of children, etc. There are often some fees and costs associated with probate procedures. These costs come out of your estate.

IX. PERSONAL REPRESENTATIVE: A personal representative or executor is a person that you name in your will to carry out your desires, as expressed in your will, and to settle your estate. Settlement includes paying, from your estate, any taxes and debts you may owe. Many married people name their spouse as their personal representative. Your personal representative will have an important role and it should be someone you trust. Any adult may serve as your executor, although **many states prefer or require an executor who is a legal resident of the state where probate is conducted.**

X. METHODS OF DISTRIBUTION: 1) **Per Stirpes** is a method of distribution whereby the descendants of a beneficiary receive that beneficiary's share of the estate if the beneficiary has died before the estate is distributed. 2) **By Survivorship** distributes the share of a deceased beneficiary to the surviving members of the group.

XI. GUARDIAN: A guardian is the person who is responsible for caring for the person and/or property of a minor child. If your children are minors when you die, and if the other natural parent is not alive or for any reason cannot act as guardian, the court will normally appoint the person(s) you name to act as legal guardian(s) of the children. The guardian(s) named will have physical control and custody of the children until they reach age 18. If you are comfortable appointing an individual as guardian of your children, but not their property, you may appoint a different individual to be responsible for the property of the children. If you are divorced, remember the court will usually appoint your former spouse to be the guardian (as the children's other natural parent) even if you provide otherwise in your will. You should still name a guardian, however, in case your former spouse dies before you or for any reason cannot act as the guardian.

XII. LEAVING PROPERTY TO MINOR CHILDREN:

1) You may leave your property to your minor children in the care of a custodian (**almost always the Guardian of the children**) named under the Uniform Transfer to Minors Act (**UTMA**) to manage the property of the children until they reach the age of 21. The custodian you appoint establishes an UTMA account for each minor. Like a trustee, the custodian will be charged with administering the funds for the benefit of your children. Unlike a trustee, the custodian's duties and responsibilities are defined in state law rather than in your Will. 2) You may leave your property in **TRUST** for the benefit of your minor children until they reach an age older than 21. A trust is similar to a bank account that you create for your children; the property you leave to your children automatically goes into it if you establish one. When your children reaches a certain age that you specify in your will, all the money that remains in the account is distributed to the children, in equal shares. You appoint a "trustee" who is legally responsible for the account to watch over the account and distribute money to your children. A disadvantage is that the trust must earn enough money to pay accountants, financial advisors, and lawyers. In addition to these costs, a trust costs your trustee a lot of time and energy. **Generally, it is not a good idea to set up a trust unless you have substantial investments and life insurance proceeds to leave to your children.**

WILL QUESTIONNAIRE

1. DO YOU CURRENTLY HAVE A WILL? YES _____ NO _____

If yes, please bring a COPY of your Will with you to your appointment, if possible.

2. STATE OF **LEGAL** RESIDENCE: _____ SSN _____

3. **STATUS:** (Circle appropriate response):

Active Duty Family Member Retiree Family Member

Branch of Service _____ Unit _____ (If Active Duty)

4. YOUR CURRENT MARITAL STATUS? (Circle appropriate response):

Married Never Married Divorced Separated Widowed Remarried

5. What is the approximate total value of both your and your spouse's estate including life insurance: \$ _____

6. **PERSONAL INFORMATION**

Client's Full Name: _____

Are you a U.S. citizen? Yes No

(if married) Full name of client's spouse: _____

Is spouse a U.S. citizen? Yes No

Client's current address:

Phone #s: (home): _____ (client's office): _____

(E-Mail) _____

7. **CHILDREN and STEPCHILDREN:** Please list your children's names, ages, and whether they are your biological, adopted, or stepchildren:

If you have stepchildren, stepchildren will not receive a share of your estate unless you say so in your will. **DO YOU WANT THEM TO SHARE EQUALLY WITH YOUR NATURAL CHILDREN?**

YES _____ NO _____ N/A _____

8. WHO WILL BE NAMED AS YOUR PERSONAL REPRESENTATIVE? **If your spouse is your primary choice, just write "SPOUSE".** Name at least one alternate to your primary choice

Primary: _____

Alternate: _____

2nd Alt: _____

9. **REAL ESTATE** (Frequently, a husband and wife own real estate jointly with right of survivorship. If you and your spouse own your home or other property that way, your will does not affect how your ownership interest passes when you die.)

Do you own real estate jointly with your spouse? ____ yes ____ no

If yes, how do you wish to give your real estate? ____ All to my spouse.

Do you have a farm or family-owned business? ____ yes ____ no

IF YOU WANT TO GIVE AWAY A HOUSE OR REAL ESTATE SEPARATELY, PLEASE ATTACH A COPY OF THE DEED WITH THE LEGAL DESCRIPTION.

WHAT

TO WHOM

RELATIONSHIP

10. Do you wish to make any **SPECIFIC BEQUEST** in your will? ____ yes ____ no

If yes, please list your specific bequest(s) and who you want to receive it (them):

11. **DISINHERITING SOMEONE:**

Do you wish to disinherit someone other than your spouse? ____ yes ____ no

If so, whom (please provide the name and relationship to you.)?

12. **TO WHOM DO YOU WISH TO DISTRIBUTE YOUR ESTATE WHEN YOU DIE?**

Circle your choice and then print the names if other than spouse and children (already indicated above):

YOUR SPOUSE YOUR CHILDREN AN INDIVIDUAL A GROUP OF INDIVIDUALS

Method of Distribution to Group: Per Stirpes: _____ Surviving Members: _____

IF THE PERSON(S) NAMED ABOVE DO NOT OUTLIVE YOU, THEN WHO DO YOU WANT TO HAVE YOUR PROPERTY? Circle one and give the other information below:

YOUR CHILDREN AN INDIVIDUAL A GROUP OF INDIVIDUALS

Method of Distribution to Group: Per Stirpes:_____ Surviving Members:_____

IF THE PERSON(S) NAMED ABOVE DO NOT OUTLIVE YOU, THEN WHO DO YOU WANT TO HAVE YOUR PROPERTY? Circle one and give the other information below:

YOUR CHILDREN AN INDIVIDUAL A GROUP OF INDIVIDUALS CHARITY

Method of Distribution to Group: Per Stirpes:_____ Surviving Members:_____

13. **LEAVING PROPERTY TO MINOR CHILDREN:** Please keep in mind that there is a difference between a Financial Custodian and a Legal Guardian. A Financial Guardian watches over your children’s inheritance, while a Legal Guardian watches over your child.

AGE OF DISTRIBUTION? _____

WHO IS YOUR CHOICE TO BE THE LEGAL GUARDIAN OF YOUR MINOR CHILDREN?

SPOUSE? _____YES _____NO

Primary: _____
Or First Alternate to Spouse.

Alternate: _____

Alternate: _____

DO YOU WANT THE CHILD'S GUARDIAN NAMED CUSTODIAN UNDER UTMA?
YES _____ NO _____.

IF NO, WHO DO YOU WANT TO MANAGE THE PROPERTY OF ANY MINOR TAKING UNDER YOUR WILL?

First Name	Full Middle	Last	Relationship	City	State
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DO YOU WANT A TRUST? _____ YES _____ NO

AT WHAT AGE SHOULD THE TRUST BE DISTRIBUTED? _____

WHO DO YOU WANT TO BE THE TRUSTEE?

First Name Full Middle Last Relationship City State

Primary: _____

Alternate: _____

**YOU HAVE NOW COMPLETED THE WILL WORKSHEET IF YOU
DO NOT WANT A POWER OF ATTORNEY OR ADVANCED
MEDICAL DIRECTIVE FOR HEALTH (LIVING WILL) PREPARED**

STOP HERE!!!!

POWER OF ATTORNEY WORKSHEET

A Power of Attorney may be revoked by you at any time, but you must destroy it to ensure that it is not misused. **A Power of Attorney terminates on your death.** No one is required to accept your Power of Attorney. It will be accepted in most places, if it is clear and current. You should check with the places where your Power of Attorney is likely to be used to make sure it will be accepted.

_____ **GENERAL:** A General Power of Attorney gives your agent the power to do anything you could do. To give a General Power of attorney, you should have complete trust in your agent:

- _____ To take effect now?

OR

- _____ To take effect **only upon disability** (Springing General Power of Attorney)?

_____ **SPECIAL:** A Special Power of Attorney gives your agent the power to do specific acts which you designate.

What act or acts do you wish to accomplish with this Special Power of Attorney?

Given to whom:

First Name	Full Middle	Last	Relationship	City	State
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A **Springing General Power of Attorney** only becomes effective if you are disabled. It does not expire until the disability ends. However, if you want a General Power of Attorney, **when do you want the General or Special Power of Attorney to expire?**_____ (We recommend that a Power of Attorney be given for no more than two years at a time)

Do you want your General or Special Power of Attorney to continue if you are disabled?_____

If applicable, do you want your General or Special Power of Attorney to continue if you are declared a POW or MIA?_____

ADVANCED MEDICAL DIRECTIVE

This form is a combined durable power of attorney for health care and living will.

Appoint someone to make medical decision for you if, in the future, you are unable to make those decisions for yourself, and/or:

Indicate what medical treatment you do or do not want if, in the future, you are unable to make your wishes known.

DIRECTIONS

Read each section carefully.

Talk with the person you plan to appoint to make sure that they understand your wishes, and is willing to take the responsibility.

Place the initials of your name on the blank line before those choices you want to make.

Fill in only those choices that you want under Parts 1 and 2. Your advance directive should be valid for whatever part(s) you fill in, as long as it is properly signed.

Add any special instructions in the blank spaces provided. You can write additional comments on a separate sheet of paper, but you should indicate on the form that there are additional pages to your advance directive.

Give copies of your advance directive to your health care agents, family members, doctor, and hospital or nursing home if you are a patient there.

Understand that you may change or cancel this document at any time.

DEFINITIONS

Advance Medical Directive: A written document that tells what a person wants or does not want if, in the future, they cannot make their wishes known about medical treatment. Advance Medical Directive (AMD) includes two documents: Durable Health Care Power of Attorney and a Living Will.(also called AMD).

Artificial Nutrition and Hydration: Food and water are fed to a person through a tube.

Durable Power of Attorney for Health Care: An advance directive that appoints someone to make medical decisions for a person if, in the future, they cannot make their own medical decisions.

Life-Sustaining Treatment: Any medical treatment that is used to keep a person from dying. A breathing machine, CPR, and artificial nutrition and hydration are examples of life-sustaining treatment.

Living Will: An advance directive that tells what medical treatment a person does or does not want if they are not able to make their wishes known. Many states now refer to this document as Advance Medical Directive.

Persistent Vegetative State: When a person is unconscious with no hope of regaining consciousness even with medical treatment.

Terminal Condition: An on-going condition caused by injury or illness that has no cure and from which doctors expect the person to die even with medical treatment.

ADVANCE MEDICAL DIRECTIVES (AMD)

My Durable Health Care Power of Attorney, Living Will, and Other Wishes.

I, _____, write this document as a directive regarding my medical care.

Part I. Durable Health Care Power of Attorney (DHCPOA)

_____ I appoint the following person to make decisions about my medical care if there ever comes a time when I cannot make those decision myself:

Name: _____

Address: _____

Tel: (H) _____ (W) _____

_____ If the person above cannot or will not make decisions for me, I appoint the following person:

Name: _____

Address: _____

Tel: (H) _____ (W) _____

Do you want your Health Care Agent above to make all health care decisions for you (i.e., DHCPOA only)? If so, STOP HERE!

OR

Do you want your Health Care Agent above, your doctors, your family, and others to be guided by the decisions you have made in Part II below. If you want a Living Will please complete Part II below.

Part II. Advanced Medical Directive (Living Will)

These are my wishes for my future medical care if there comes a time when I cannot make these decisions for myself.

These are my wishes if I have a terminal condition/persistent vegetative state:

1. Life Sustaining Treatments

_____ I do not want life-sustaining treatments

_____ I want life-sustaining treatments that my doctors thinks are best for me.

2. Artificial Nutrition and Hydration

_____ I do not want artificial nutrition

_____ I want artificial nutrition

_____ I do not want artificial hydration

_____ I want artificial hydration

If I am pregnant, my decisions concerning life-sustaining procedures shall be modified as follows [insert any desired modifications]:

Example: If there is a choice between saving my life and saving my unborn child's life I want my life saved. If I am pregnant while I am incapacitated and there is no chance for me to live, keep me alive by any means necessary until my unborn child has reached full term or can live on it's own outside of my womb. When my child has been taken from my womb then, at this time, you may fulfill the "living will."